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Ira J Schaefer
Chadbourne & Parke
30 Rockefeller Plaza
New York NY 10112

APR 28 2005

In re Application of:
Nishimura et al.
Serial No.: 09/720,235
Filed: December 20, 2000
Attorney Docket No.: 14998-255

SUA SPONTE
DECISION WITHDRAWING HOLDING
OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

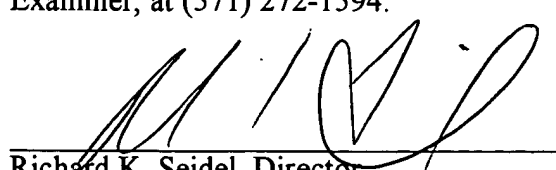
The application was held abandoned for failure to timely file a response to the Office action mailed on May 19, 2003. A Notice of Abandonment was mailed on November 21, 2003.

A review of the written record indicates that a proper response to the Office action was previously filed on November 18, 2003, but not matched with the application prior to the mailing of the Notice of Abandonment. A proper reply under 37 C.F.R. § 1.113 to a final rejection consists of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114.

Since the timely filed amendment places the application in condition for allowance, the abandonment of the application was premature. Therefore, the application was not abandoned in fact. For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.


Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components